

NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

October 27, 2006

The Nebraska Commission on Law Enforcement and Criminal Justice met Friday, October 27, 2006 at 9:30 a.m. in Lower Level Conference Room A of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Legal notice of the meeting was published October 9, 2006 in the Lincoln Journal Star.

I. CALL TO ORDER

The meeting was called to order at 9:37 a.m. by Acting Chairman Matt McNair. The following members were **in attendance**: Acting Chair Matt McNair, Scott Arnold, Charles Brewster, Dean Chase, Scot Ford, Robert Houston, Susan Jacobs, Paul Leseberg, Don Overman, Peter Pirsch, Thomas Warren and William White. **Members excused**: William Brueggemann, Gary Lacey, Kathy Moore, James Riskowski and Bryan Tuma. **Staff present**: Mike Behm, William Muldoon, Bruce Ayers, Monica Miles-Steffens, Mike Overton and Sarah Schoen. **Others present**: Charles Lowe (Attorney General's Office).

II. APPROVAL OF MINUTES

Motion

A motion was made by Warren and seconded by Arnold to approve the minutes of the Crime Commission meeting of July 28, 2006; Criminal Justice Information Systems Advisory Committee of May 11 and August 10, 2006; Nebraska Coalition for Juvenile Justice meeting of September 15, 2006; and the Police Standards Advisory Council meetings of August 16 and September 20, 2006. The motion passed unanimously by acclamation.

The minutes of the Jail Standards Board meeting of July 21, 2006, and the Community Corrections Council meeting of September 22, 2006 were provided for the member's review.

III. PUBLIC HEARING FOR THE REVOCATION OF LAW ENFORCEMENT CERTIFICATION OF STEVE R. OSTRANSKY, #LR-034-05, CASS COUNTY SHERIFF'S OFFICE

Charles Lowe, Assistant Attorney General, represented the State of Nebraska in the revocation of Steve Ostransky's Law Enforcement certification. No counsel was present for Mr. Ostransky. Lowe stated that the purpose of today's hearing is to review and consider approval of the Police Standards Advisory Council's (PSAC) decision to revoke the Law Enforcement certificate of Steve Ostransky. The PSAC arrived at this decision at their September 20, 2006 meeting. Lowe provided the following information about the incident leading to this action. Steve Ostransky was a certified Law Enforcement Officer, Deputy Sheriff of Cass County from July 6, 1999 until September 15, 2004. During this time, he served as treasurer of the Greenwood Rescue Squad. On March 24, 2005, a criminal information was filed against Mr. Ostransky accusing him of having basically embezzled funds from the Rescue Squad at various times between June 2001 and July 22 2004, a period of time during which he was employed as a Law Enforcement Officer. The information contained five counts, all of which were Class III felonies. A plea agreement was reached, and Mr. Ostransky pled no contest to all five counts. Mr. Ostransky was

found guilty and sentenced to two years of intensive supervision probation and six months in jail. No appeal was taken. On this basis, a complaint was filed against Mr. Ostransky to revoke his Law Enforcement certificate.

Lowe explained that the Administrative Record for Mr. Ostransky is divided into four exhibits. Exhibit one is the Administrative Transcript which primarily shows what occurred, the formal complaint that was filed, and the findings, facts and conclusions of the PSAC. Exhibit two is the Administrative Bill of Exceptions which includes the PSAC hearing minutes, six exhibits presented at the hearing and agency records pertaining to the revocation process. Exhibit three is a copy of the letter Dave Stolz sent to Mr. Ostransky on October 4, 2006 notifying him of the October 27, 2006 Crime Commission meeting, and the certificate showing Mr. Ostransky received this letter. Exhibit four is the Affidavit of Publication showing the decertification hearing was being held at this meeting, and that this information was published in the Lincoln Journal Star on October 2, 2006. Lowe next offered exhibits 1-4 to be admitted into the administrative record. This was completed.

Motion

A motion was made by White and seconded by Overman to revoke the Law Enforcement certification of Steve R. Ostransky. Voting in favor of the motion: Arnold, Brewster, Chase, Ford, Houston, Jacobs, Leseberg, Overman, Pirsch, Warren and White. Motion carried unanimously.

IV. EXECUTIVE DIRECTOR'S REPORT

Mike Behm presented his Executive Director's report noting the following:

- Three members of the Drug Force Ad-Hoc Committee met with Senator Flood on October 25, 2006 to discuss potential funding sources. This is an ongoing situation which started last September with the mindset of trying to obtain extra funding for the Drug Task Forces. The Ad-Hoc Committee was developed to help move this forward.
- As of October 26, 2006, there are currently 24 pending revocations. Of these 24 pending revocations, 12 of them have been requested since May 2006.
- For those of you who may not have heard, Barbara McCreight passed away on October 10, 2006. Our thoughts continue to be with Barb's family through this difficult time.

V. NEW BUSINESS

A. Nebraska Law Enforcement Training Center

1. Instructor Certifications

The Crime Commission next considered one request for **General Instructor Certification**, two requests for **General Instructor Recertification**, five requests for **Professional Instructor Certification**, ten requests for **Professional Instructor Recertification** and one request for **Legal Recertification**. PSAC's recommendations were reported by Dean Chase.

Motion

A motion was made by Brewster and seconded by Leseberg to grant the following instructor certifications per Police Standards Advisory Council's recommendations: General Instructor Certification to Katherine K. McCaul, Omaha Police Department; General Instructor Recertifications to John F. Fosket, Nebraska Law Enforcement Training Center, Hall County Corrections and Mark T. Langan, Omaha Police Department; Professional Instructor Certifications to Randy I. Bybee, Nebraska State Patrol, Todd A. Kinghorn, Nebraska State Patrol, Bonnie Nichols, Nebraska State Patrol, Mark Stephenson, Nebraska Law Enforcement Training Center, Valentine Police Department and Tarrence L. Vernon, Lincoln Police Department; Professional Instructor Recertifications to Judith Bailey, Nebraska State Patrol, Jeffrey Barnes, Nebraska State Patrol, Brent Bockstadter, Nebraska State Patrol, Martin Costello, Nebraska State Patrol, Vicky Cowan, Nebraska State Patrol, Glenn Elwell, Nebraska State Patrol, William Linton, Nebraska State Patrol, Warren Nelson, Nebraska State Patrol, William Price, Nebraska State Patrol and James B. Stover, Nebraska State Patrol; Legal Recertification to Frederick King, Nebraska State Patrol. Voting in favor of the motion: Arnold, Brewster, Chase, Ford, Houston, Jacobs, Leseberg, Overman, Pirsch, Warren and White. Motion carried unanimously.

2. Nebraska State Patrol Academy Inspection

3. Omaha Police Academy Inspection

Dean Chase reviewed the recommendations of the Police Standards Advisory Council on the inspection of the Nebraska State Patrol Academy and the Omaha Police Academy.

Motion

A motion was made by Brewster and seconded by Leseberg to approve the inspection of the Nebraska State Patrol Academy and the Omaha Police Academy as per Police Standards Advisory Council's recommendation. Voting in favor of the motion: Arnold, Brewster, Chase, Ford, Houston, Jacobs, Leseberg, Overman, Pirsch, Warren and White. Motion carried unanimously.

B. William Burgess Case Report

C. Steven Roemmich Case Report

Michael Behm presented the information for both the William Burgess case and the Steven Roemmich case together due to the fact that Ms. Johnson provided one file for both Burgess and Roemmich, and the information contained in each file is exactly the same. Behm recommended to the Commission that no further action be taken against Sheriff William Burgess and Deputy Steven Roemmich, Fillmore County Sheriff's Department per Rule and Regulation, Title 79, Chapter 9, 006.01. Behm's recommendation was based on the following:

- The documents provided regarding the alleged incidents are dated from the years 2000-2003 and appear to be personnel issues.
- There were no apparent criminal violations regarding the allegations by Ms. Johnson against Sheriff Burgess and Deputy Roemmich, which was noted in a letter dated November 30, 2005 from Mr. Corey M. O'Brien, Assistant Nebraska Attorney General.

- The documents provided appear to be related to personnel issues, which were handled through the findings of the Fillmore County Grievance Board on March 28, 2003. The Grievance Board encouraged Sheriff Burgess to implement a new policy, psychological testing for duty fitness and polygraphs for sworn Law Enforcement officers.
- The recommendations from the Fillmore County Grievance Board on March 28, 2003 have been satisfied, as noted by Sheriff Burgess to Executive Director Behm on August 3, 2006.

For these reasons, Behm stated he does not believe the allegations warrant any further investigation by the Nebraska Crime Commission and recommended no further action be taken.

Motion

A motion was made by Overman and seconded by Warren to approve the William Burgess case and the Steven Roemmich case be closed with no further action to be taken by the Crime Commission. Voting in favor of the motion: Arnold, Brewster, Chase, Ford, Houston, Leseberg, Overman, Pirsch, Warren and White. Abstaining from the vote: Jacobs. Motion carried unanimously.

D. Mark Montgomery, Cozad Police Department

Behm informed the Commission that due to the resignation of Chief Charles Headley from the Aurora Police Department, he recommended Mark Montgomery, Cozad Police Department, to be appointed as the new member on the Police Standards Advisory Council in Headley's place. Governor Heineman has since appointed Montgomery, and he will serve on the PSAC for the remainder of the term.

E. Award of 04-JA-604 to NE Health & Human Services - \$31,000.00

Monica Miles-Steffens stated that this is a Juvenile Accountability grant that will be awarded out of the interest money we earn off of our total award. This amount is what we have earned so far from 2004 dollars. After we award this amount, we will turn the interest off so we do not have to send any money back. This grant is going to Health & Human Services, but it will be used for the purpose of allowing Probation to access some slots in school intervention worker programs across the state. This is a program funded when we had a larger Juvenile Accountability grant fund. Health & Human Services was able to sustain the programs after the JABG dollars were dramatically reduced at the state level. As a result, Probation approached the Office of Juvenile Services (OJS) about accessing slots, and OJS was willing to run the grant and offer the slots since they already had the contracts in place. This helps Probation a great deal so they do not have to contract for 2-3 slots at each location. This is a good cooperation between state agencies, and it allows Probation to have some needed community based services for probationers.

Motion

A motion was made by Arnold and seconded by Brewster to accept the Coalition's funding recommendation and contingency stipulations of award as outlined for the \$31,000.00 to the NE Health & Human Services. Voting in favor of the motion: Arnold, Brewster, Chase, Ford, Houston, Jacobs, Leseberg, Overman, Pirsch, Warren and White. Motion carried unanimously.

VI. OTHER BUSINESS

A. Robert Henderson Investigation

Acting Chair Matt McNair inquired on the status of the Robert Henderson case which was brought to our office by Senator Chambers. Behm reported the investigative agency changed from the Lancaster County Sheriff's Department (due to a conflict of interest) to the Omaha Police Department.

B. Decertification of Law Enforcement Officers

Behm reported that the 24 pending revocations, with 12 being added since May, shows how the agencies across the state are reviewing officers that should not be employed or certified in the State of Nebraska. When the November elections are over, Behm plans to meet with the Governor in regards to the impact of these revocations on the Crime Commission as an agency. Behm believes this is important to the profession to properly investigate these and feels an obligation to assist in this.

A discussion ensued amongst the Commission in regards to the revocation process and what can be done to solve this issue. The big problem is there are no funds available to hire an investigator for these cases. We currently rely a great deal on local agencies to help with these investigations; however, this poses a conflict in many cases as well. There does not appear to be an immediate solution to this problem, but it is something that will be brought to the Governor's attention. It would be beneficial to possibly have an attorney and investigator on staff to help with these revocations.

VII. ADJOURNMENT

The next scheduled meeting of the Commission will be **Friday, January 26, 2007 at 9:30 a.m. in the Nebraska State Office Building, Lincoln, Lower Level Conference Room A.**

There being no further business, the meeting adjourned at 10:10 a.m.

Respectfully Submitted,

Sarah J. Schoen
Administrative Assistant